

REMARKS

This paper is in response to Notice of Non-Compliant Amendment mailed January 4, 2007, which is due Monday, February 5 (February 4 fell on a Sunday), which amendment was originally filed December 8 2006, in response to the Final Office Action, mailed September 08, 2006, for which a response was due and filed on December 08, 2006, in connection with the US Patent Application identified above, and for which a Notice of Appeal was filed therewith, along with appropriate fee.

Applicant has corrected the amendment of claim 10 to indicate deletion of parts c and d as asserted by the Examiner.

Applicant requests that the final status of the present Office Action be removed, due to the fact that the Examiner has made new prior art rejections using different art and different combinations of art.

To more particularly recite the presently claimed invention, Applicant has amended claims 1, 6 and 10 to more particularly recite what Applicant regards as his invention and to clarify what has already been claimed that the scented tires release an added scent or fragrance from use, which does not include the smell of the rubber being heated or oxidized due to wear. The remaining claims 2, 4, 7-9, 12, 13, 16, and 17, have been amended to reflect that claim 1 has been amended to recite a "scented" vehicle tire to clarify that the tires have an added scent or fragrance, which the Examiner continues to ignore. It is believed that no new matter is added to the amended claims.

On page 2 of the Office Action, the Examiner objects to claims 6-9 and 16 under 35 USC 112, second paragraph, asserting that the use of the term "groove, channel or device: is confusing, and suggests change to "void comprises". Applicant has deleted this term, and clarified that the insert, o-ring or plug comprises a particular shape, design, directional orientation, size, or depth, rendering this objection moot.

Reconsideration and withdrawal are requested.

On page 2 of the Office Action, the Examiner objects to claim 10 under 37 CFR 175(c), asserting that the claim's adding "removable" as a dependent feature broadens the claim. While disagreeing with the Examiner Applicant has amended the claims to remove these terms, rendering this rejection moot. Reconsideration and withdrawal are requested.

On pages 3-5 of the Office Action, the Examiner rejects claims 1, 4-10, 12-13 and 16-17 under 35 USC section 102 (b) as being anticipated by Great Britain 584 (GB 2,243,584). The Examiner asserts that this reference discloses a vehicle tire having grooves and removable wear indicators inserted therein, and that the wear indicator gives off an inherent scent. The Examiner asserts that the other features of the dependent claims are disclosed by Britain 584.

The Examiner notes that terms such as novelty, unique aroma and salient, distinctive and marketable features of the scent were deleted from claim 1. Applicant points out that the Examiner, in the Office Action of March 14, 2006, rejected all of these terms as indefinite. Since the Examiner has now used the removal of these terms, in hindsight, to attempt to read the claims on the prior art, Applicant has amended the claims to clarify that the scent or fragrance is incorporated as a scent or fragrance in a plug or insert to the vehicle tire, which claims the same invention as using the above terms which the Examiner has failed to consider patentable in claims under 35 USC 102, second paragraph. The amendments to the claims are fully supported by the priority specification, dated 4-17-03, e.g., in the sentence preceding and including the first paragraph of the Description of the Invention section as follows:

Finally, a less invasive means for scenting a vehicle tire comprising a novelty plug or insert is disclosed.

DESCRIPTION OF THE INVENTION

The disclosed scented vehicle tire may be realized in myriad ways and combinations. Scent may be made apparent in the vehicle tire by incorporating novelty scent or fragrance in or on the rubber compound(s) comprising a given vehicle tire, in or on the any of the non-rubber components of a given tire, or on any combination of a given tire's rubber compound(s) and non-rubber components.

(Emphasis added.)

Applicant respectfully points out that the cited art fails to disclose, teach or suggest the use of an added scent or fragrance compound in a plug or insert that gives off the scent or fragrance when the vehicle tire is used but does not include the use of the scent as a tire wear indicator. Reconsideration and withdrawal of this rejection is requested.

On page 5-6 of the Office Action, the Examiner rejects claims 3 and 4 under 35 USC 103(a) as unpatentable over Britain 584 in view of Korea (2004029611), Japan 873 or German 356, for the reasons presented in the Office Action.

The presently claimed invention covers vehicle tires comprising removable plugs or inserts that comprise at least one perfume or fragrance that is given off due to wear, heat or friction when the tire is driven on, which invention is not suggested or taught by the cited references, alone or in combination. Additionally there is no motivation to combine the teachings of the cited references to provide the presently claimed combination. Britain 584 fails to suggest an incorporated scent or fragrance given off due to friction, use or heat and Korea's use of encapsulated fragrance as a wear indicator to be activated at the time the tire needs to be replaced does not make up the deficiencies of Britain 584. Japan 873 teaches perfume-sealed particles that are incorporated into the rubber composition of the tire and not into a plug, insert or o-ring as presently claimed. German 356 discloses a wear indicator that is activated when the tire needs to be replaced as in Japan 873 which may emit a noise, smoke or smell. German 356 fails to suggest that the "smell" can be emitted whenever the tire is exposed to normal use, as presently claimed.

Accordingly, the cited references fail to disclose, teach or suggest each and every element of the present claims. The present claims distinguish over the cited reference(s). Applicant respectfully requests reconsideration and withdrawal of this rejection.

On page 6-8 of the Office Action, the Examiner rejects claims 3-11 and 13-20 under 35 USC 103(a) as unpatentable over Japan 873, in view of one of French 013, Canada 958 or Japan 908, for the reasons presented in the Office Action.

The presently claimed invention covers vehicle tires comprising removable plugs or inserts that comprise at least one perfume or fragrance that is given off due to wear, heat or friction when the tire is driven on, which invention is not suggested or taught by the cited references, alone or in combination. Additionally there is no motivation to combine the teachings of the cited references to provide the presently claimed combination. Japan 873 teaches perfume-sealed particles that might be incorporated into the rubber composition of the tire. Japan 873 fails to teach or suggest a scent or fragrance added to a tire plug or inserts presently claimed. French 013 teaches bike tire with inner and outer non-slip tread patterns with trough that can be colored. Canada 958 discloses tire with replaceable insert to replace worn tread. Japan 908 discloses o-rings to add in the grooves between the treads to add non-black color to decorate the tire.

The presently claimed invention covers vehicle tires comprising removable plugs or inserts that comprise at least one perfume or fragrance that is given off due to wear, heat or friction when the tire is driven on, which invention is not suggested or taught by the cited references, alone or in combination. Additionally there is no motivation to combine the teachings of the cited references to provide the presently claimed combination.

Accordingly, the cited references fail to disclose, teach or suggest each and every element of the present claims. The present claims distinguish over the cited reference(s). Applicant respectfully requests reconsideration and withdrawal of this rejection.

On page 8 of the Office Action, the Examiner rejects claim 2 under 35 USC 103(a) as unpatentable over Japan 873, in view of one of French 013, Canada 958 or Japan 908, and further in view of Berliner, for the reasons presented in the Office Action.

The presently claimed invention covers vehicle tires comprising removable plugs or inserts that comprise at least one perfume or fragrance that is given off due to wear, heat or friction when the tire is driven on, which invention is not suggested or taught by the cited references, alone or in combination. Additionally there is no motivation to combine the teachings of the cited references to provide the presently claimed combination. Japan 873 teaches perfume-sealed particles that might be incorporated into the rubber composition of the tire. Japan 873 fails to teach or suggest a scent or fragrance added to a tire plug or insert as presently claimed. French 013 teaches bike tire with inner and outer non-slip tread patterns with trough that can be colored. Canada 958 discloses tire with replaceable insert to replace worn tread. Japan 908 discloses o-rings to add in the grooves between the treads to add non-black color to decorate the tire. Berliner's suggestion of adding pheromone to perfume does not make up for the deficiencies of the other references and there is no suggestion in Berliner to combine its teaches for use in a scented tire.

Accordingly, the cited references fail to disclose, teach or suggest each and every element of the present claims. The present claims distinguish over the cited reference(s). Applicant respectfully requests reconsideration and withdrawal of this rejection.

On pages 8-9 of the Office Action, the Examiner rejects claims 4 and 13 under 35 USC 103(a) as unpatentable over Japan 873, in view of one of French 013, Canada 958 or Japan 908, and further in view of Berliner, for the reasons presented in the Office Action.

The presently claimed invention covers vehicle tires comprising removable plugs or inserts that comprise at least one perfume or fragrance that is given off due to wear, heat or friction when the tire is driven on, which invention is not suggested or taught by the cited references, alone or in combination. Additionally there is no motivation to combine the teachings of the cited references to provide the presently claimed combination. Japan 873 teaches perfume-sealed particles that might be incorporated into the rubber composition of the tire. Japan 873 fails to teach or suggest a scent or fragrance added to a tire plug or insert as presently claimed. French 013 teaches bike

tire with inner and outer non-slip tread patterns with trough that can be colored.

Canada 958 discloses tire with replaceable insert to replace worn tread. Japan 908 discloses o-rings to add in the grooves between the treads to add non-black color to decorate the tire. French 340 suggesting (according to the Examiner) colored o-rings or grooves for a particular color scheme or colored rubber or tearable cell wear indicator (not presently claimed) fails to make up for the deficiencies of the primary references.

Accordingly, the cited references fail to disclose, teach or suggest each and every element of the present claims. The present claims distinguish over the cited reference(s). Applicant respectfully requests reconsideration and withdrawal of this rejection.

On page 9 of the Office Action, the Examiner rejects claim 12 under 35 USC 103(a) as unpatentable over Japan 873, in view of one of French 013, Canada 958 or Japan 908, and further in view of Mellet et al (WO 01/43958), for the reasons presented in the Office Action.

The presently claimed invention covers vehicle tires comprising removable plugs or inserts that comprise at least one perfume or fragrance that is given off due to wear, heat or friction when the tire is driven on, which invention is not suggested or taught by the cited references, alone or in combination. Additionally there is no motivation to combine the teachings of the cited references to provide the presently claimed combination. Japan 873 teaches perfume-sealed particles that might be incorporated into the rubber composition of the tire. Japan 873 fails to teach or suggest a scent or fragrance added to a tire plug or insert as presently claimed. French 013 teaches bike tire with inner and outer non-slip tread patterns with trough that can be colored.

Canada 958 discloses tire with replaceable insert to replace worn tread. Japan 908 discloses o-rings to add in the grooves between the treads to add non-black color to decorate the tire. Mellet et al teaches colored covers that fit into grooves between tread of a bike tire. Mellet fails to make up for the deficiencies of the other references.

Accordingly, the cited references fail to disclose, teach or suggest each and every element of the present claims. The present claims distinguish over the cited reference(s). Applicant respectfully requests reconsideration and withdrawal of this rejection.

Application No. 10/822,049

Art Unit: 1733

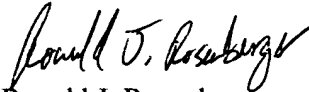
Applicant Response to 09-14-06 Office Action

February 5, 2007

Applicant respectfully requests reconsideration and allowance of the present claims.

The Examiner is invited to contact Applicant with any questions or comments.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ronald J. Rosenberger".

Ronald J. Rosenberger
Applicant

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Date: February 05, 2007